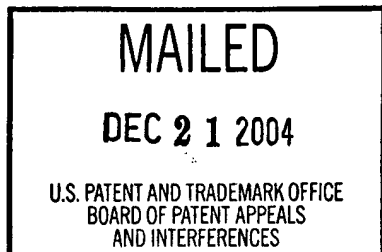


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_



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Ex parte MANNING I. ROSE  
\_\_\_\_\_

\_\_\_\_\_  
Application No. 08/673,642  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on November 10, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

1. Appellant filed an Appeal Brief on February 18, 1999 (Paper No. 13).

We note that the filing fee for the Brief has not been charged as required by 37 CFR § 1.192(a), now 37 CFR § 41.67(a)(2)..

2. The examiner mailed an Examiner's answer on April 13, 1999. The examiner mailed a second Examiner's answer on January 13, 2004 in response to a remand by the BPAI mailed June 20, 2001.

The Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., Rev. 2, May 2004) states:

An appeal conference is mandatory in all cases in which an, acceptable brief (MPEP § 1206) has been filed . . . . The participants of the appeal conference should include (1 ) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

. . . . On the examiner's answer, below the primary examiner's signature, the word "Conferee should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their name.** This will make the record clear that an appeal conference has been held.

Neither of the answers is in full compliance with the requirements of The Manual of Patent Examining Procedure (MPEP) § 1208 stated above.

3. The examiner mailed a final rejection on November 10, 1998. There appears to be at least one page of the final rejection missing from document in the electronic record as the last page of the document ends with an incomplete sentence and it is lacking a signature page.

Accordingly, it is

ORDERED that the application is being returned to the Examiner for  
(1) the examiner to have the matter of payment of the Appeal Brief  
filing fee corrected as required,

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(2) the examiner to issue an Examiner's answer containing the appropriate appeals conference information,

(3) the examiner to have a complete copy of the final rejection mailed November 10, 1998 entered into the electronic record of the file, and

(4) for such further action as may as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE M. SHAW

Program and Resource Administrator  
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DMS/vsh  
RA05-0096